

DRAFT:DFM:cg (9 June 75)

Mr. James M. Frey, Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Attention: Mr. William V. Skidmore

Dear Mr. Skidmore:

This is in response to your request for the views of the Central Intelligence Agency on H. R. 2635, "To amend the Privacy Act of 1974." The bill would alter section 3(d)(2)(B)(i) of the Act, regarding an individual's right to correct personal information held by Government agencies, and would also strike section 3(j)(1). This section authorizes the Director of Central Intelligence to promulgate rules exempting any system of CIA records from certain requirements of the Act. I will confine my comments to the proposed deletion of this partial CIA exemption.

In drafting the Privacy Act, Congress recognized that "certain areas of Federal records are of such a highly sensitive nature that they must be exempted" (House Report 93-1416). Accordingly, Congress exempted systems of records "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy" [subsection (k)(1)], and Central Intelligence Agency records [subsection (j)(1)] from portions of the Act. Sections of the Act which do apply to this Agency restrict the dissemination of records to those for specific enumerated purposes, require it to maintain a listing of each disclosure of a record for at least five years, and publish annually in the Federal Register a general description of our systems of records concerning American citizens or permanent resident aliens.

The basic mission of this Agency is to assist our nation's policy-makers by providing them the best possible intelligence on foreign developments and threats. The system of records established in the Agency is designed to support this mission. Our ability to provide accurate and current intelligence to the President, the National Security Council, and to the Congress depends heavily upon the acquisition and maintenance of productive sources and effective methods of collection and analysis. Preservation of these sources and methods is absolutely dependent on their secrecy. Technical collection efforts can often be easily nullified if the target country is aware of the collection effort. And, of course, human sources will refuse further cooperation if they believe there is a substantial danger that their cooperation will be revealed. I believe it was because of this essential secrecy Congress, in the National Security Act of 1947, as amended (50 U.S.C. 403) directed that:

"The Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."

Although some CIA information can be protected by the section (k)(1) exemption for national defense or foreign policy information, this exemption would not fully protect Intelligence Sources and Methods information contained in the Agency's system of records. An intelligence document can reveal sources and methods and warrant protection even though the substantive information conveyed does not jeopardize the national defense or foreign policy. An example may help explain this. A and B, U. S. citizens, attend a scientific conference abroad of foreign intelligence interest to the United States. A voluntarily provides the Agency confidential information on

the conference and includes information concerning B, or a foreign asset reports on the conference and includes information on A and B. Disclosure of the information on either A or B could reveal A or the foreign asset as the source of the information. In summary, H.

In summary, H. R. 2635, by striking the Agency's exemption from certain requirements of the Privacy Act, would jeopardize the Intelligence Sources and Methods which are vital to the Agency's ability to fulfill its unique mission. I must, therefore, strongly oppose the bill.

Sincerely,

W. E. Colby
Director